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5 **UNITED STATES DISTRICT COURT**  
6 **DISTRICT OF NEVADA**  
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8 THOMAS BRANAGAN,

9 Petitioner,

2:15-cv-01575-GMN-PAL

10 vs.

**ORDER**

11 DWIGHT NEVEN, *et al.*,

12 Respondents.  
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15 This action is a petition for writ of habeas corpus. On August 17, 2015, the petitioner,  
16 Thomas Branagan, submitted an application to proceed *in forma pauperis* (ECF No. 1).

17 On August 19, 2015, finding Branagan able to pay the filing fee, the court denied his  
18 application to proceed *in forma pauperis*, and ordered him to pay the filing fee within 30 days.  
19 The court stated that failure to comply with that order would result in the dismissal of this action.  
20 Branagan did not pay the filing fee in the time allowed. Therefore, on September 30, 2015, the court  
21 dismissed this action, and judgment was entered accordingly (ECF No. 4, 5).

22 On October 22, 2015, Branagan filed what the court construed to be a motion for relief from  
23 judgment, pursuant to Federal Rule of Civil Procedure 60(b) (ECF No. 6). In that motion, Branagan  
24 stated that he attempted to pay the filing fee, but was unable to do so, and he requested additional  
25 time to pay the filing fee. On November 2, 2015, the court granted Branagan's motion, and ordered  
26 the judgment vacated (ECF No. 7). The court granted Branagan more than two more months -- to

1 January 8, 2016 -- to pay the filing fee. The court stated that if he was no longer able to pay the  
2 filing fee, Branagan could file a new application to proceed *in forma pauperis*. The court warned  
3 that failure to comply with that order, within the time allowed, would result in dismissal of this  
4 action. Branagan did not, by January 8, 2016, pay the filing fee or file a new application to proceed  
5 *in forma pauperis*. Therefore, on February 22, 2016, the court -- for a second time -- dismissed this  
6 action without prejudice, and judgment was entered accordingly (ECF Nos. 8, 9).

7 Then, on February 26, 2016, Branagan filed a document entitled "Motion for Extension of  
8 Time" (ECF No. 10). That document is in the nature of a motion for relief from judgment, pursuant  
9 to Federal Rule of Civil Procedure 60(b), and the court treats it as such. The motion for relief from  
10 judgment was filed within a reasonable time. *See* Fed.R.Civ.P. 60(c). In his motion, Branagan states  
11 that he again attempted to pay the filing fee, but was unable to do so. Branagan again asks for  
12 additional time to pay the filing fee. The court finds that there is good cause to grant Branagan's  
13 motion for relief from judgment. The court will -- again -- order the judgment in this case vacated.  
14 The court will grant Branagan additional time to pay the filing fee, or to file a new application to  
15 proceed *in forma pauperis*, if he believes he is no longer able to pay the filing fee. If Branagan does  
16 not pay the filing fee, or file a new application to proceed *in forma pauperis* within the time allowed,  
17 this action will be dismissed.

18 There is indication in Branagan's February 26, 2016, motion that he is now incarcerated at  
19 Nevada's Lovelock Correctional Center. Branagan did not, as is required, notify the court regarding  
20 his change of address from High Desert State Prison, where he was incarcerated when he initiated  
21 this action. *See* LSR 2-2 ("The plaintiff shall immediately file with the Court written notification of  
22 any change of address.... Failure to comply with this Rule may result in dismissal of the action with  
23 prejudice."). This may have contributed to the difficulty Branagan has had in initiating this case.  
24 The court will direct the Clerk of the Court to update the docket in this case to reflect Branagan's  
25 new address. Going forward, Branagan must comply with the local rule, and keep the court, and all  
26 parties to the action, apprised of his current address.

1           **IT IS THEREFORE ORDERED** that petitioner's "Motion for Extension of Time"  
2 (ECF No. 10) is treated as a motion for relief from judgment, pursuant to Federal Rule of Civil  
3 Procedure 60(b), and is **GRANTED**.

4           **IT IS FURTHER ORDERED** that the judgment entered February 22, 2016, is **VACATED**.

5           **IT IS FURTHER ORDERED** that petitioner shall have until **May 20, 2016**, to pay the \$5  
6 filing fee for this action. To do so, petitioner shall have the filing fee of five dollars (\$5) sent to the  
7 Clerk of the Court, along with a copy of this order, or some other document indicating the filing fee  
8 is for this action. In the alternative, if he is no longer able to pay the filing fee, petitioner may file a  
9 new application to proceed *in forma pauperis*, on the correct form and fully completed. Failure to  
10 comply with this order, within the time allowed, will result in dismissal of this action.

11           **IT IS FURTHER ORDERED** that the Clerk of the Court shall update the docket to reflect  
12 that the petitioner is now incarcerated at the Lovelock Correctional Center, as is indicated in his  
13 "Motion for Extension of Time" (ECF No. 10).

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15           Dated this   1   day of March, 2016.

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19           UNITED STATES DISTRICT JUDGE  
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